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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

**HERITAGE SENIOR LIVING, LLC.,
and BELLE REVE SENIOR LIVING**

Plaintiffs,

vs.

DEIRDRE BUTLER

Defendant.

CASE NO.

COMPLAINT

PRELIMINARY STATEMENT

Plaintiffs, Heritage Senior Living, LLC, and Belle Reve Senior Living (collectively referred to as “Plaintiffs”), by and through their undersigned counsel, Brown & Connery, LLP, file this Complaint against Defendant, Deirdre Butler, for Libel Per Se, Libel, Slander Per Se, Slander, Commercial Disparagement, Tortious Interference with Business Relations, and Tortious Interference with Prospective Economic Advantage, arising out of Defendant’s attempt to irresponsibly and without proper information and/or knowledge misrepresent to the public assertions concerning Plaintiffs’ business during a world-wide pandemic, and in support thereof avers the following:

PARTIES

1. Plaintiff, Heritage Senior Living (“Heritage”), is in the business of developing, marketing, and managing senior housing communities in the Mid-Atlantic

region, which includes, but not is not limited to the Belle Reve Senior Living Center, with a principal place of business in the Commonwealth of Pennsylvania, with an address of 765 Skippack Pike Suite 300, Blue Bell, PA 19422.

2. Plaintiff, Belle Reve Senior Living (“Belle Reve”), is in the business of providing a senior living community for residents in the need of personal assistance, experiencing effects of a dementia-related illnesses and memory loss, and/or in the need of long-term or short-term rehabilitation, with a location at 404 E. Harford Street, Milford, PA 18337.

3. Defendant, Deirdre Butler, upon information and belief, has no affiliation with Heritage and/or any of their senior housing communities, including, but not limited to Belle Reve Senior Living, and is a citizen and resident of the State of Alabama, with an address of 727 Hickory Knoll, Birmingham, Alabama 35226.

JURISDICTION AND VENUE

4. Jurisdiction is vested in the Court of the United States pursuant to 28 U.S.C. §1332 in that the parties are citizens of different states as Plaintiffs, Heritage and Belle Reve, are citizens of the Commonwealth of Pennsylvania and Defendant, Deirdre Butler, is a citizen and resident of the State of Alabama, and the amount in controversy exceeds the sum or value of \$75,000.00.

5. Venue is vested in the United States District Court for the Eastern District of Pennsylvania pursuant to 28 U.S.C. §1391 in that the Eastern District of Pennsylvania is the location of Heritage’s principal place of business.

FACTUAL BACKGROUND

A. The COVID-19 Pandemic

6. Currently, United States of America and the majority of nations in the world are suffering from a global pandemic caused by the COVID-19 virus.

7. COVID-19 is a type of coronavirus causing illnesses in humans throughout the world, and in many instances causing severe respiratory infections.

8. COVID-19 is highly contagious and mainly spread through contact with respiratory droplets of an infected individual.

9. As of May 7, 2020, the CDC reported a total of 1,193,813 confirmed cases of COVID-19 infections in the United States, which has resulted in 70,802 deaths.

10. During this pandemic, misinformation relating to the virus has been spreading on social media platforms causing additional concerns and issues for businesses and individuals throughout the United States of America.

11. On March 16, 2020, the major social media platforms, Facebook, Google, LinkedIn, Microsoft, Reddit, Twitter, and YouTube, joined forces and pledged to work together in order to combat misinformation about the virus and the misinformation spreading across their respective platforms.

12. On March 16, 2020, these social media platforms released the following statement:

[w]e are working closely together on COVID-19 response efforts. We're helping millions of people stay connected while also jointly combating fraud and misinformation about the virus, elevating authoritative content

on our platforms, and sharing critical updates in coordination with government healthcare agencies around the world. We invite other companies to join us as we work to keep our communities healthy and safe.

13. Specifically, Facebook has ensured their users that it will provide them with access to accurate information and remove harmful content in order to combat the spread of COVID-19 misinformation.

B. Heritage Senior Living During COVID-19

14. Heritage develops markets and manages senior housing communities in Pennsylvania, New Jersey, Virginia, and Georgia.

- a. In Pennsylvania, Heritage manages the following senior living communities: (1) Belle Reve Senior Living; (2) Traditions of Hanover; (3) Keystone Villa at Fleetwood; (4) Chestnut Knoll; (5) Keystone Villa at Douglassville; (6) Keystone Villa at Ephrata; (7) Chestnut Knoll at Home; (8) The Birches at Harleysville; (9) Traditions of Lansdale; (10) The Birches at Newtown; (11) Traditions of Hershey; (12) The Manor at Market Square; (13) Heritage Hill Senior Community; and (14) Senior Commons at Powder Mill.
- b. In New Jersey, Heritage manages the following properties: (1) Traditions of Cross Keys; and (2) Cardinal Village.
- c. In Virginia, Heritage manages the following properties: (1) Heritage Green Assisted Living and Memory Care; and (2) Heritage Green.
- d. In Georgia, Heritage manages the following properties: (1) The Mansions at Alpharetta; (2) The Mansions at Gwinnet Park; and (3) The Mansions at Sandy Springs.
- e. These properties are collectively referred to as the “Heritage Communities.”

15. Belle Reve is a senior living community licensed by the PA Department of Health and is Medicare and Medicaid certified.

16. In 2020, Belle Reve was awarded the “Best of Senior Living” by SeniorAdvisor.com.

17. In or around July of 2019, Belle Reve was a recipient of an over-all five-star rating in skilled nursing by the Centers for Medicare and Medicaid Services.

18. As of 2019, less than 25% of skilled nursing communities in the Commonwealth of Pennsylvania received a five-star rating in skilled nursing.

19. The Heritage Communities have earned a high reputation in their respective communities for the level of care provided to its residents.

20. The Heritage Communities have been and continue to be highly reputable senior living communities.

21. Maintaining a strong reputation of care to and for its residents and staff is essential to Heritage and its communities, including, but not limited to Belle Reve, in order to continue to serve the Heritage Communities effectively and properly.

22. During the COVID-19 pandemic, Heritage has taken the necessary precautions in order to prevent and mitigate the spread of COVID-19 in all its communities.

23. Heritage has been committed to following the continually evolving guidelines issued by both the CDC and Department of Health in order to continue to provide safety for its residents and staff, which is updated as often as necessary,

sometimes daily as new medical information and guidance is released for the industry and the Country as a whole.

24. Prior to the CDC's recommendation regarding the use of facemasks, Heritage mandated its staff in all of the Heritage Communities to wear facemasks while at work.

25. Heritage has and continues to evaluate its inventory of essential items and Personal Protective Equipment ("PPE") during this pandemic and has provided the necessary items and PPE to all of the Heritage Communities, residents and staff alike, as needed.

26. Heritage has and continues to be committed to the safety of its residents and staff during this world-wide pandemic.

C. Deirdre Butler's Facebook Post

27. On or around May 1, 2020, Defendant unlawfully posted the following misinformation on Facebook:

DURING THIS PANDEMIC THIS IS NOT THE PLACE FOR YOUR
LOVED ONES!!!!!!

It has been brought to my attention that there are several patients at this facility have been tested positive for the COVID 19 virus. The director and manager will not provide proper PPE for the nurses aid and they have not allowed patients to get out of their beds for baths and walking.

Workers are being made to work without PPE equipment and then being sent home to their family, which will cause the virus to spread to their family members.

The manager on duty is named Patricia Martin. It has been reported that she only comes there to pass out beverages, but does not go into to see patients. She has not provided adequate information to the Children of these patients on the conditions of their parents.

I have reported her behavior and that of Michael Perlock to the State Authorities. If you have loved ones there in this facility, please inquire on the welfare of your Parents, Grandparents, Husbands or Wives, PLEASE PLEASE!!!!!!

28. Upon information and belief, Defendant is a Customer Service Representative at Protective Life Insurance in the State of Alabama.

29. Upon information and belief, Defendant has no education or experience in the field of medicine, infectious disease, global pandemics, or the use of PPE.

30. Upon information and belief, Defendant has no experience on how to properly manage a senior living facility, especially during a pandemic.

31. Upon information and belief, Defendant has no authority or experience regarding the necessary protocols of a senior living community, especially during a pandemic.

32. Upon information and belief, Defendant has no affiliation and/or communications with any of the Heritage Communities and/or its staff, residents or families.

33. Upon information and belief, Defendant has no independent knowledge and/or information regarding Heritage's use of PPE at any of the Heritage Communities.

34. Upon information and belief, Defendant has no independent knowledge and/or information concerning the upper management of Belle Reve, including, but not limited to Patricia Martin and Michael Perlock.

35. Upon information and belief, Defendant has no actual knowledge and/or information on how Belle Reve is responding to the COVID-19 pandemic.

36. Upon information and belief, Defendant does not know how to properly care for residents and staff of a senior living community during a pandemic.

37. Upon information and belief, Defendant did not have any knowledge and/or information regarding PPE prior to the COVID-19 pandemic.

38. Upon information and belief, Defendant is only aware of PPE because of the news and/or other public coverage surrounding COVID-19.

39. Upon information and belief, Defendant does not know the proper PPE to use and/or distribute to staff at a senior living community.

40. Defendant has illegally reported members of the Belle Reve staff regarding their actions during the COVID-19 pandemic without having proper cause and/or independent knowledge.

41. Defendant on her own individual behalf posted misinformation concerning Belle Reve via Facebook in an attempt to misinform the public, residents of Belle Reve, and/or family members of the residents of Belle Reve, as well as potential employees of Belle Reve and Heritage.

42. Defendant on her own individual behalf posted misinformation concerning Belle Reve via Facebook in order to cause additional hysteria during a pandemic without attempting to fact check and/or conduct an independent investigation about any of her unfounded concerns.

43. Upon information and belief, Defendant made false and defamatory statements to State Authorities regarding the quality and nature of the actions of the upper

management team at Belle Reve concerning their response and behavior during the COVID-19 pandemic.

44. Defendant without proper independent knowledge and/or information posted misinformation concerning Plaintiffs and as a result, is in violation of the law and the rules and guidelines of Facebook.

45. Defendant's illegal, defamatory, inappropriate, and irresponsible post on Facebook has forced Plaintiff to take down its comments page from Facebook as it was false, defamatory, derogatory and misleading as well as intentionally spreading misinformation relating to COVID-19 and the positive and supportive activities of the Plaintiffs.

46. Defendant made false and defamatory statements regarding the quality and nature of Belle Reve's response in handling the COVID-19 pandemic and as a result harmed the reputation of the Heritage Communities by posting these unfounded and false assertions on Facebook.

47. Defendant's intentional actions caused significant concern on the part of residents and their family members during a global pandemic which created significant issues for the plaintiffs' based entirely on the false and defamatory statements made by Defendant.

48. Defendant's malicious and inappropriate actions incited additional actions by employees of the plaintiffs' which created staffing concerns during a pandemic that would otherwise not have existed.

COUNT I
SLANDER & SLANDER PER SE

49. Plaintiffs repeat and incorporate by reference the previous allegations of the Complaint as if set forth at length herein.

50. On or around May 1, 2020, Defendant made false, slanderous, defamatory statements and drew inferences, without privilege, regarding Plaintiffs by communicating misinformation to State Authorities.

51. Defendant published statements to third-parties by reporting misinformation concerning Plaintiffs' procedures and actions during the COVID-19 pandemic by communicating these statements to State Authorities.

52. At the time Defendant uttered, repeated, wrote, approved, distributed, circulated, and/or published the aforementioned assertions she knew that the State Authorities would reasonably understand or infer that the assertions described the Plaintiffs.

53. Defendant knew that the assertions and reasonably drawn inferences of these statements were totally false or, if not, the failure of Defendant to determine the accuracy of her assertions was an utter and reckless disregard of their truth and falsity.

54. The false and defamatory statements were negligently made by Defendant.

55. The false and defamatory statements were made by Defendant maliciously and with knowledge of their falsity, or with serious doubt as to their truth.

56. The false and defamatory statements were made by Defendant with intentional, extreme and outrageous conduct.

57. The false, defamatory, and misinformed statements by Defendant against Plaintiffs and members of Plaintiffs' upper management concerning their professional, personal, and business reputations and character were made maliciously and with intent to destroy their reputation and destroy the careers of the named individuals.

58. Defendant's illegal, defamatory, inappropriate, and irresponsible Facebook post caused and continues to cause Plaintiffs to expend financial resources to ensure residents, family members of the residents, and the community that Plaintiffs were and are properly responding to the COVID-19 pandemic by providing residents and staff with appropriate items and PPE in order to prevent the spread and/or mitigate the spread of COVID-19.

59. Defendant's illegal, defamatory, inappropriate, and irresponsible Facebook post has had and continues to have a financial impact on Plaintiffs' current and future business, and an impact on Plaintiffs' reputation.

60. As a direct and proximate result of the defamatory statement by Defendant, Plaintiffs have suffered humiliation and embarrassment in the business community for which punitive damages are recoverable.

WHEREFORE, Plaintiffs request judgment in their favor and against Defendant, for compensatory, consequential, special and punitive damages in an amount in excess of \$75,000.00, together with interest and costs of suit, removal of the Facebook post and any other relief as the Court may deem proper in an amount which will punish Defendant for her conduct and deter her and others similarly situated from like acts in the future.

COUNT II
LIBEL & LIBEL PER SE

61. Plaintiffs repeat and incorporate by reference the previous allegations of the Complaint as if set forth at length herein.

62. On or around May 1, 2020, Defendant made a false, libelous, defamatory statement and reasonably drew inferences, without privilege, regarding Plaintiffs by posting on Facebook, and in turn, publishing and distributing an electronic written communication, which was directed and delivered to an unlimited number of users on Facebook.

63. In addition to sending this communication to an unlimited number of users, the communication was sent to family members of the current residents of Belle Reve and/or potential future residents of the Heritage Communities.

64. The referenced false, defamatory, and libelous statements damaged Plaintiffs' professional and business reputation amongst its residents, the family members of the residents, employees, perspective employees and the community.

65. The false, defamatory, and libelous statements have eroded the trust between the Heritage Communities and its residents and created public scorn and backlash by members of the public of family members of the residents at the Heritage Communities.

66. The statement was negligently made by Defendant as an individual.

67. The false, defamatory, and misinformed statements by Defendant against Plaintiffs and members of Plaintiff's upper management concerning their professional,

personal, and business reputations and character were made maliciously and with intent to destroy the reputation of Plaintiffs and destroy the careers of the named individuals.

68. As a direct and proximate result of Defendant's illegal, defamatory, inappropriate, and irresponsible Facebook post, Defendant's actions have caused and continues to cause Plaintiffs to expend financial resources to ensure residents, family members of the residents, and the community that Plaintiffs were and are properly responding to the COVID-19 pandemic by providing residents and staff with appropriate items and PPE in order to prevent the spread and/or mitigate the spread of COVID-19.

69. Defendant's illegal, defamatory, inappropriate, and irresponsible Facebook post has had and continues to have a financial impact on Plaintiffs' current and future business, and an impact on Plaintiffs' reputation.

70. As a direct and proximate result of the defamatory statements by Defendant, Plaintiffs have suffered humiliation and embarrassment in the business community for which punitive damages are recoverable.

WHEREFORE, Plaintiffs request judgment in their favor and against Defendant, for compensatory, consequential, special and punitive damages in an amount in excess of \$75,000.00, together with interest and costs of suit, removal of the Facebook post and any other relief as the Court may deem proper in an amount which will punish Defendant for her conduct and deter her and others similarly situated from like acts in the future.

COUNT III
COMMERCIAL DISPARAGEMENT

71. Plaintiffs repeat and incorporate by reference the previous allegations of the Complaint as if set forth at length herein.

72. As a direct and proximate result of Defendant's publication of defamatory, slander, and libel statements, Plaintiffs have sustained and will continue to sustain a financial loss and a loss to its reputation.

73. Defendant's illegal, defamatory, inappropriate, and irresponsible Facebook post began with the following statement, "DURING THIS PANDEMIC THIS IS NOT THE PLACE FOR YOUR LOVED ONES!!!!!!"

74. Defendant intended the publication of this illegal, defamatory, inappropriate, and irresponsible Facebook post to cause a pecuniary loss to Plaintiffs or reasonably should have recognized that the publication would result in a financial loss to Plaintiffs.

75. Defendant either knew this illegal, defamatory, inappropriate, and irresponsible Facebook post was false or acted in reckless disregard of its truth or falsity.

76. Defendant's illegal, defamatory, inappropriate, and irresponsible Facebook post caused and continues to cause Plaintiffs to expend financial resources to ensure residents, family members of the residents, employees, perspective employees and the community that Plaintiffs were and are properly responding to the COVID-19 pandemic by providing residents and staff with appropriate items and PPE in order to prevent the spread and/or mitigate the spread of COVID-19.

77. Defendant's illegal, defamatory, inappropriate, and irresponsible Facebook post has had and continues to have a financial impact on Plaintiffs' current and future business.

WHEREFORE, Plaintiffs request judgment in their favor and against Defendant,

for compensatory, consequential, special and punitive damages in an amount in excess of \$75,000.00, together with interest and costs of suit, removal of the Facebook post and any other relief as the Court may deem proper in an amount which will punish Defendant for her conduct and deter her and others similarly situated from like acts in the future.

COUNT IV
TORTIOUS INTERFERENCE WITH BUSINESS RELATIONS

78. Plaintiffs repeat and incorporate by reference the previous allegations of the Complaint as if set forth at length herein.

79. Plaintiffs have and continue to be in the business of procuring contracts of current and future residents for its senior living communities.

80. Defendant's illegal, defamatory, inappropriate, and irresponsible Facebook post makes evident that she was aware that Plaintiffs were parties to a contract with its residents which provided housing and services to its residents.

81. Defendant's illegal, defamatory, inappropriate, and irresponsible Facebook post was made by Defendant with intentional, extreme and outrageous conduct.

82. As a direct and proximate result of Defendant's illegal, defamatory, inappropriate, and irresponsible Facebook post, Defendant's actions has caused and continues to cause Plaintiffs to expend financial resources to ensure residents, family members of the residents, employees, perspective employees and the community that Plaintiffs were and are properly responding to the COVID-19 pandemic by providing residents and staff with appropriate items and PPE in order to prevent the spread and/or mitigate the spread of COVID-19.

83. As a direct and proximate result of Defendant's illegal, defamatory, inappropriate, and irresponsible Facebook post, Defendant's actions has had and continues to have a financial impact on Plaintiffs' current and future business.

WHEREFORE, Plaintiffs request judgment in their favor and against Defendant, for compensatory, consequential, special and punitive damages in an amount in excess of \$75,000.00, together with interest and costs of suit, removal of the Facebook post and any other relief as the Court may deem proper in an amount which will punish Defendant for her conduct and deter her and others similarly situated from like acts in the future.

COUNT V
TORTIOUS INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE

84. Plaintiffs repeat and incorporate by reference the previous allegations of the Complaint as if set forth at length herein.

85. Plaintiffs have and continue to be in the business of procuring contracts of current and future residents for its senior living communities.

86. During the COVID-19 pandemic, Plaintiffs have diligently been maintaining and obtaining contracts with current and future residents of the Heritage Communities.

87. The COVID-19 has not prevented the use and need for the Heritage Communities and the services they provide to their residents.

88. Defendant's illegal, defamatory, inappropriate, and irresponsible Facebook post maintains that the parties to these existing and future contracts should not be residents at the Heritage Communities during this world-wide pandemic.

89. Defendant's actions were a direct and intentional attempt to prevent

Plaintiffs and its current and future residents from continuing their contractual relationship.

90. As an insurance representative, Defendant has no privilege or justification in asserting any type of medical advice to the Facebook community, specifically with regards to the COVID-19 pandemic and Plaintiffs' use of PPE.

91. As a direct and proximate result of Defendant's illegal, defamatory, inappropriate, and irresponsible Facebook post, Defendant's actions has caused and continues to cause Plaintiffs to expend financial resources to ensure residents, family members of the residents, employees and the community that Plaintiffs were and are properly responding to the COVID-19 pandemic by providing residents and staff with appropriate items and PPE in order to prevent the spread and/or mitigate the spread of COVID-19.

92. As a direct and proximate result of Defendant's illegal, defamatory, inappropriate, and irresponsible Facebook post, Defendant's actions has had and continues to have a financial impact on Plaintiffs' current and future business.

WHEREFORE, Plaintiffs request judgment in their favor and against Defendant, for compensatory, consequential, special and punitive damages in an amount in excess of \$75,000.00, together with interest and costs of suit, removal of the Facebook post and any other relief as the Court may deem proper in an amount which will punish Defendant for her conduct and deter her and others similarly situated from like acts in the future.

JURY DEMAND

TAKE NOTICE that Plaintiffs demand a trial by jury on all claims.

Respectfully submitted,

BROWN & CONNERY, LLP
Attorneys for Plaintiff

Dated: June 9, 2020

By: s/Louis R. Lessig
Louis R. Lessig, Esq.